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AMENDED IN ASSEMBLY JUNE 4, 1998  
AMENDED IN SENATE MARCH 25, 1998  
AMENDED IN SENATE MARCH 18, 1998  
AMENDED IN SENATE FEBRUARY 25, 1998

**SENATE BILL**

**No. 1418**

**Introduced by Senator Rosenthal**

January 20, 1998

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An act to amend Section 6405 of, to amend the heading of Chapter 5.5 (commencing with Section 6400) of Division 3 of, to amend, repeal, and add Sections 6401, 6402, 6403, 6407, 6408, 6409, 6410, 6411, 6412, 6413, and 6415 of, to add and repeal Sections 6401.6, 6402.1, and 6412.1 of, and to repeal and add Section 6400 of, the Business and Professions Code, relating to legal document assistants.

LEGISLATIVE COUNSEL'S DIGEST

SB 1418, as amended, Rosenthal. Legal document assistants.

Existing law generally regulates unlawful detainer assistants, as defined, and, among other things, requires an unlawful detainer assistant, by the filing of an application, to register with the county clerk of the county in which he or she performs acts for which registration is required.

This bill would revise and recast these provisions to, in addition, apply to legal document assistants, as defined. This

bill would prohibit a legal document assistant from providing service to a client who requires assistance that exceeds “self-help service” as defined. The bill would require the application for registration to be made under penalty of perjury, thereby expanding the scope of the crime of perjury and, consequently, imposing a state-mandated local program. The bill would authorize the denial of a certificate of registration after a hearing set by the district attorney, and would provide that an applicant whose registration is denied may reapply after one year. It would also require certain disclosures to consumers. This bill would repeal these changes on January 1, 2002, and at that time would restore current law applicable exclusively to unlawful detainer assistants, with certain changes.

Existing law provides that the failure of a person who engages in acts of an unlawful detainer assistant to comply with certain provisions of existing law is a misdemeanor.

Since this bill would make the current penal provisions applicable to persons registered as legal document assistants, this bill would impose a state-mandated local program by increasing the scope of an existing crime. The bill would also impose a state-mandated local program by expanding the duties of the county clerk and the district attorney.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



*The people of the State of California do enact as follows:*

SECTION 1. The heading of Chapter 5.5 (commencing with Section 6400) of Division 3 of the Business and Professions Code is amended to read:

CHAPTER 5.5. LEGAL DOCUMENT ASSISTANTS AND  
UNLAWFUL DETAINER ASSISTANTS

SEC. 2. Section 6400 of the Business and Professions Code is repealed.

SEC. 3. Section 6400 is added to the Business and Professions Code, to read:

6400. (a) “Unlawful detainer assistant” means any individual who for compensation renders assistance or advice in the prosecution or defense of an unlawful detainer claim or action, including any bankruptcy petition that may affect the unlawful detainer claim or action.

(b) “Unlawful detainer claim” means a proceeding, filing, or action affecting rights or liabilities of any person that arises under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure and that contemplates an adjudication by a court.

(c) “Legal document assistant” means:

(1) Any person who is not exempted under Section 6401 and who provides, or assists in providing, or offers to provide, or assists in providing, for compensation, self-help service to the public.

(2) A corporation, partnership, association, or other entity that employs any person not exempted under Section 6401 who, as part of his or her responsibilities, provides self-help service or who holds himself or herself out as someone who offers that service or has that authority.

(d) “Self-help service” means all of the following:

(1) Providing general published factual information that has been written or approved by an attorney, pertaining to legal procedures, rights, or obligations to a person who is representing himself or herself in a legal

1 matter, to assist the person in representing himself or  
2 herself.

3 (2) Making published legal documents available to a  
4 person who is representing himself or herself in a legal  
5 matter.

6 (3) Completing legal documents, selected by a person  
7 who is representing himself or herself in a legal matter,  
8 and at the specific direction of that person, in a ministerial  
9 manner, by typing or otherwise completing the  
10 documents.

11 (4) Filing and serving legal documents at the specific  
12 direction of a person who is representing himself or  
13 herself in a legal matter.

14 (e) “Compensation” means money, property, or  
15 anything else of value.

16 (f) This section shall remain in effect only until  
17 January 1, 2002, and as of that date is repealed, unless a  
18 later enacted statute, that is enacted before January 1,  
19 2002, deletes or extends that date.

20 SEC. 4. Section 6400 is added to the Business and  
21 Professions Code, to read:

22 6400. (a) “Unlawful detainer assistant” means any  
23 individual who for compensation renders assistance or  
24 advice in the prosecution or defense of an unlawful  
25 detainer claim or action, including any bankruptcy  
26 petition that may affect the unlawful detainer claim or  
27 action.

28 (b) “Unlawful detainer claim” means a proceeding,  
29 filing, or action affecting rights or liabilities of any person  
30 that arises under Chapter 4 (commencing with Section  
31 1159) of Title 3 of Part 3 of the Code of Civil Procedure  
32 and that contemplates an adjudication by a court.

33 (c) “Compensation” means money, property, or  
34 anything else of value.

35 (d) This section shall become operative January 1,  
36 2002.

37 SEC. 5. Section 6401 of the Business and Professions  
38 Code is amended to read:

39 6401. This chapter does not apply to any of the  
40 following:

1 (a) Any government employee who is acting in the  
2 course of his or her employment.

3 (b) A member of the State Bar of California, or his or  
4 her employee or agent, or an independent contractor  
5 while acting on behalf of a member of the State Bar.

6 (c) Any employee of a nonprofit, tax-exempt  
7 corporation who assists clients free of charge.

8 (d) A licensed real estate broker or licensed real estate  
9 salesperson, as defined in Chapter 3 (commencing with  
10 Section 10130) of Part 1 of Division 4, who acts pursuant  
11 to subdivision (b) of Section 10131 on an unlawful  
12 detainer claim as defined in subdivision (b) of Section  
13 6400, and who is a party to the unlawful detainer action.

14 (e) An immigration consultant, as defined in Chapter  
15 19.5 (commencing with Section 22441) of Division 8.

16 (f) A person registered as a process server under  
17 Chapter 16 (commencing with Section 22350) of Division  
18 8.

19 (g) A person who provides services relative to the  
20 preparation of security instruments or conveyance  
21 documents in conjunction with the provision of title or  
22 escrow service.

23 (h) A person who provides services that are regulated  
24 by federal law.

25 (i) This section shall remain in effect only until  
26 January 1, 2002, and as of that date is repealed, unless a  
27 later enacted statute, that is enacted before January 1,  
28 2002, deletes or extends that date.

29 SEC. 6. Section 6401 is added to the Business and  
30 Professions Code, to read:

31 6401. This chapter does not apply to any of the  
32 following:

33 (a) Any government employee who is acting in the  
34 course of his or her employment.

35 (b) A member of the State Bar of California, or his or  
36 her employee, paralegal, or agent, or an independent  
37 contractor while acting on behalf of a member of the  
38 State Bar.

39 (c) Any employee of a nonprofit, tax-exempt  
40 corporation who assists clients free of charge.

(d) A licensed real estate broker or licensed real estate salesperson, as defined in Chapter 3 (commencing with Section 10130) of Part 1 of Division 4, who acts pursuant to subdivision (b) of Section 10131 on an unlawful detainer claim as defined in subdivision (b) of Section 6400, and who is a party to the unlawful detainer action.

(e) This section shall become operative January 1, 2002.

SEC. 7. Section 6401.6 is added to the Business and Professions Code, to read:

6401.6. A legal document assistant shall not provide service to a client who requires assistance that exceeds the definition of self-help service in subdivision (b) of Section 6400, and shall inform the client that the client requires the services of an attorney.

This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2002, deletes or extends that date.

SEC. 8. Section 6402 of the Business and Professions Code is amended to read:

6402. A legal document assistant or unlawful detainer assistant shall be registered pursuant to this chapter by the county clerk of each county in which he or she performs acts for which registration is required. No person who has been disbarred or suspended from the practice of law pursuant to Article 6 (commencing with Section 6100) of Chapter 4 shall, during the period of any disbarment or suspension, register as a legal document assistant or unlawful detainer assistant.

This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

SEC. 9. Section 6402 is added to the Business and Professions Code, to read:

6402. An unlawful detainer assistant shall be registered pursuant to this chapter by the county clerk of each county in which he or she performs acts for which registration is required. No person who has been

1   disbarred or suspended from the practice of law pursuant  
2   to Article 6 (commencing with Section 6100) of Chapter  
3   4 shall, during the period of any disbarment or suspension,  
4   register as an unlawful detainer assistant. The  
5   Department of Consumer Affairs shall develop the  
6   application that shall be completed by a person for  
7   purposes of registration as a legal document assistant. The  
8   application shall specify the types of proof that the  
9   applicant shall provide to the county clerk in order to  
10   demonstrate the qualifications and requirements of  
11   Section 6402.1.

12   *This section shall become operative January 1, 2002.*

13   SEC. 9.5. Section 6402.1 is added to the Business and  
14   Professions Code, to read:

15   6402.1. To be eligible to apply for registration under  
16   this chapter as a legal document assistant, the applicant  
17   shall possess at least one of the following:

18   (a) A high school diploma or general equivalency  
19   diploma, and either a minimum of two years of  
20   law-related experience under the supervision of a  
21   licensed attorney, or a minimum of two years experience,  
22   prior to January 1, 1999, providing self-help service.

23   (b) A baccalaureate degree in any field and either a  
24   minimum of one year of law-related experience under  
25   the supervision of a licensed attorney, or a minimum of  
26   one year of experience, prior to January 1, 1999, providing  
27   self-help service.

28   (c) A certificate of completion from a paralegal  
29   program that is institutionally accredited but not  
30   approved by the American Bar Association, that requires  
31   successful completion of a minimum of 24 semester units,  
32   or the equivalent, in legal specialization courses.

33   (d) A certificate of completion from a paralegal  
34   program approved by the American Bar Association.

35   (e) This section shall remain in effect only until  
36   January 1, 2002, and as of that date is repealed, unless a  
37   later enacted statute, that is enacted before January 1,  
38   2002, deletes or extends that date.

39   ~~This section shall become operative January 1, 2002.~~

1 SEC. 10. Section 6403 of the Business and Professions  
2 Code is amended to read:

3 6403. (a) The application for registration of a natural  
4 person shall contain all of the following statements about  
5 the applicant:

6 (1) Name, age, address, and telephone number.

7 (2) Whether he or she has been convicted of a felony,  
8 or of a misdemeanor under Section 6126 or 6127.

9 (3) Whether he or she has been held liable in a civil  
10 action by final judgment or consented to the entry of a  
11 stipulated judgment, if the action alleged fraud, or the use  
12 of untrue or misleading representations, or the use of an  
13 unfair, unlawful, or deceptive business practice.

14 (4) Whether he or she has ever been convicted of a  
15 misdemeanor violation of this chapter.

16 (5) Whether he or she has had a civil judgment  
17 entered against him or her in an action arising out of the  
18 applicant's failure to properly perform his or her  
19 obligation as a legal document assistant or unlawful  
20 detainer assistant.

21 (6) Whether he or she has had a registration revoked  
22 pursuant to Section 6413.

23 (b) The application for registration of a natural person  
24 shall be accompanied by the display of personal  
25 identification, such as a California driver's license, birth  
26 certificate, or other identification acceptable to the  
27 county clerk to adequately determine the identity of the  
28 applicant.

29 (c) The application for registration of a partnership or  
30 corporation shall contain all of the following statements  
31 about the applicant:

32 (1) The names, ages, addresses, and telephone  
33 numbers of the general partners or officers.

34 (2) Whether the general partners or officers have ever  
35 been convicted of a felony, or a misdemeanor under  
36 Section 6126 or 6127.

37 (3) Whether the general partners or officers have ever  
38 been held liable in a civil action by final judgment or have  
39 consented to the entry of a stipulated judgment. If the  
40 action alleged fraud, whether it involved the use of



1 untrue or misleading representations, or the use of an  
2 unfair, unlawful, or deceptive business practice.

3 (4) Whether the general partners or officers have ever  
4 been convicted of a misdemeanor violation of this  
5 chapter.

6 (5) Whether the general partners or officers have had  
7 a civil judgment entered against them in an action arising  
8 out of a failure to properly perform the obligations of a  
9 legal document assistant or unlawful detainer assistant.

10 (6) Whether the general partners or officers have ever  
11 had a registration revoked pursuant to Section 6413.

12 (d) (1) An applicant may be denied registration or  
13 renewal of registration if the applicant has been any of the  
14 following:

15 (A) Convicted of a felony or misdemeanor under  
16 Section 6126 or 6127.

17 (B) Held liable in a civil action by final judgment or  
18 consented to the entry of a stipulated judgment, if the  
19 action alleged fraud, or the use of untrue or misleading  
20 representations, or the use of an unfair, unlawful, or  
21 deceptive business practice.

22 (C) Convicted of a misdemeanor violation of this  
23 chapter.

24 (D) Had a civil judgment entered against him or her  
25 in an action arising out of the applicant's failure to  
26 properly perform his or her obligation as a legal  
27 document assistant or unlawful detainer assistant.

28 (E) Had his or her registration revoked pursuant to  
29 Section 6413.

30 (2) An investigation concerning the denial of a  
31 certificate of registration shall be conducted by the  
32 district attorney upon request of the county clerk. Within  
33 three business days of the submittal of the application, the  
34 county clerk shall request that the district attorney  
35 conduct an investigation of an application if the applicant  
36 states that any of the subparagraphs of paragraph (1)  
37 apply. The district attorney shall complete the  
38 investigation within 15 calendar days of receiving the  
39 request from the county clerk. If the district attorney  
40 determines that cause does not exist for denial, the

1 district attorney shall inform the county clerk within  
2 three days of completing the investigation. The county  
3 clerk shall grant the certificate of registration to the  
4 applicant within three days of receiving notice from the  
5 district attorney that cause does not exist.

6 (3) If the district attorney determines from the  
7 investigation that cause may exist for the denial of the  
8 certificate of registration, he or she shall, within three  
9 business days of completing the investigation, set the  
10 matter for hearing and give notice to the applicant. The  
11 hearing shall occur no later than 30 calendar days from  
12 the date the hearing is set by the district attorney. That  
13 hearing shall be conducted in accordance with Chapter  
14 5 (commencing with Section 11500) of Division 3 of Title  
15 2 of the Government Code. For the purposes of those  
16 provisions, the district attorney shall be deemed to be the  
17 agency. The administrative law judge shall issue his or her  
18 decision within 30 calendar days of the date of the  
19 hearing. The administrative law judge shall direct that  
20 the applicant's certificate of registration be granted if he  
21 or she determines that issuance of a certificate of  
22 registration is not likely to expose consumers to a  
23 significant risk of any of the unlawful or unfair practices  
24 described in subparagraph (A), (B), (C), (D), or (E) of  
25 paragraph (1). The administrative law judge shall direct  
26 that the applicant's certificate of registration be denied if  
27 he or she determines that issuance of a certificate of  
28 registration is likely to expose consumers to a significant  
29 risk of any of the unlawful or unfair practices described  
30 in subparagraph (A), (B), (C), (D), or (E) of paragraph  
31 (1).

32 (4) The administrative law judge shall inform the  
33 county clerk of the decision within three business days of  
34 making the decision. The county clerk shall grant the  
35 certificate of registration or deny the registration, as  
36 appropriate, within three business days of being informed  
37 of the decision. If the application is denied, the applicant  
38 may file a writ of mandate with the superior court in  
39 accordance with Chapter 5 (commencing with Section  
40 11500) of Division 3 of Title 2 of the Government Code.

(5) Any person who has had an application denied under this subdivision may reapply after one year from the date of denial by the county clerk.

(e) The applications made under this section shall be made under penalty of perjury.

(f) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

SEC. 11. Section 6403 is added to the Business and Professions Code, to read:

6403. (a) The application for registration of a natural person shall contain all of the following statements about the applicant:

(1) Name, age, address, and telephone number.

(2) Whether he or she has been convicted of a felony, or of a misdemeanor under Section 6126 or 6127.

(3) Whether he or she has been held liable in a civil action by final judgment or consented to the entry of a stipulated judgment, if the action alleged fraud, or the use of untrue or misleading representations, or the use of an unfair, unlawful, or deceptive business practice.

(b) The application for registration of a partnership or corporation shall contain all of the following statements about the applicant:

(1) The names, ages, addresses, and telephone numbers of the general partners or officers.

(2) Whether the general partners or officers have ever been convicted of a felony.

(3) Whether the general partners or officers have ever been held liable in a civil action by final judgment or have consented to the entry of a stipulated judgment. If the action alleged fraud, whether it involved the use of untrue or misleading representations, or the use of an unfair, unlawful, or deceptive business practice.

(c) This section shall become operative January 1, 2002.

SEC. 12. Section 6405 of the Business and Professions Code is amended to read:

1 6405. (a) An application for a certificate of  
2 registration shall be accompanied by a bond of  
3 twenty-five thousand dollars (\$25,000) executed by a  
4 corporate surety qualified to do business in this state and  
5 conditioned upon compliance with this chapter. The total  
6 aggregate liability on the bond shall be limited to  
7 twenty-five thousand dollars (\$25,000). The bond may be  
8 terminated pursuant to Section 995.440 of, and Article 13  
9 (commencing with Section 996.310) of Chapter 2 of Title  
10 14 of Part 2 of, the Code of Civil Procedure.

11 (b) The county clerk shall, upon filing of the bond,  
12 deliver the bond forthwith to the county recorder for  
13 recording. The recording fee specified in Section 27361 of  
14 the Government Code shall be paid by the registrant. The  
15 fee may be paid to the county clerk, who shall transmit it  
16 to the recorder.

17 (c) The fee for filing, canceling, revoking, or  
18 withdrawing the bond is seven dollars (\$7).

19 (d) The county recorder shall record the bond and any  
20 notice of cancellation, revocation, or withdrawal of the  
21 bond, and shall thereafter mail the instrument, unless  
22 specified to the contrary, to the person named in the  
23 instrument and, if no person is named, to the party  
24 leaving it for recording. The recording fee specified in  
25 Section 27361 of the Government Code for notice of  
26 cancellation, revocation, or withdrawal of the bond shall  
27 be paid to the county clerk, who shall transmit it to the  
28 county recorder.

29 (e) In lieu of the bond required by subdivision (a), a  
30 registrant may deposit twenty-five thousand dollars  
31 (\$25,000) in cash with the county clerk.

32 (f) If the certificate is revoked, the bond or cash  
33 deposit shall be returned to the bonding party or  
34 depositor subject to subdivision (g) and the right of a  
35 person to recover against the bond or cash deposit under  
36 Section 6412.

37 (g) The county clerk may retain a cash deposit until  
38 the expiration of three years from the date the registrant  
39 has ceased to do business, or three years from the  
40 expiration or revocation date of the registration, in order

1 to ensure there are no outstanding claims against the  
2 deposit. A judge of a municipal or superior court may  
3 order the return of the deposit prior to the expiration of  
4 three years upon evidence satisfactory to the judge that  
5 there are no outstanding claims against the deposit.

6 SEC. 13. Section 6407 of the Business and Professions  
7 Code is amended to read:

8 6407. (a) The county clerk shall maintain a register  
9 of legal document assistants, and a register of unlawful  
10 detainer assistants, assign a unique number to each legal  
11 document assistant, or unlawful detainer assistant, and  
12 issue an identification card to each one. Additional cards  
13 for employees of legal document assistants or unlawful  
14 detainer assistants shall be issued upon the payment of  
15 ten dollars (\$10) for each card. Upon renewal of  
16 registration, the same number shall be assigned, provided  
17 there is no lapse in the period of registration.

18 (b) The identification card shall be a card 3 1/2 inches  
19 by 2 1/4 inches, and shall contain at the top, the title  
20 “Legal Document Assistant” or “Unlawful Detainer  
21 Assistant,” as appropriate, followed by the registrant’s  
22 name, address, registration number, date of expiration,  
23 and county of registration. It shall also contain a  
24 photograph of the registrant in the lower left corner.

25 (c) This section shall remain in effect only until  
26 January 1, 2002, and as of that date is repealed, unless a  
27 later enacted statute, that is enacted before January 1,  
28 2002, deletes or extends that date.

29 SEC. 14. Section 6407 is added to the Business and  
30 Professions Code, to read:

31 6407. (a) The county clerk shall maintain a register  
32 of unlawful detainer assistants, assign a unique number to  
33 each unlawful detainer assistant, and issue an  
34 identification card to each one. Additional cards for  
35 employees of unlawful detainer assistants shall be issued  
36 upon the payment of ten dollars (\$10) for each card.  
37 Upon renewal of registration, the same number shall be  
38 assigned, provided there is no lapse in the period of  
39 registration.

1 (b) The identification card shall be a card 3 1/2 inches  
2 by 2 1/4 inches, and shall contain at the top, the title  
3 “Unlawful Detainer Assistant” followed by the  
4 registrant’s name, address, registration number, date of  
5 expiration, and county of registration. It shall also contain  
6 a photograph of the registrant in the lower left corner.

7 (c) This section shall become operative January 1,  
8 2002.

9 SEC. 15. Section 6408 of the Business and Professions  
10 Code is amended to read:

11 6408. The registrant’s name, business address,  
12 telephone number, registration number, and county of  
13 registration shall appear on any solicitation or  
14 advertisement, and on the registrant’s work product,  
15 including, but not limited to, letterhead, business cards,  
16 correspondence, documents, forms, claims, petitions,  
17 checks, receipts, money orders, pleadings, and other  
18 papers prepared or used by the registrant.

19 This section shall remain in effect only until January 1,  
20 2002, and as of that date is repealed, unless a later enacted  
21 statute, that is enacted before January 1, 2002, deletes or  
22 extends that date.

23 SEC. 16. Section 6408 is added to the Business and  
24 Professions Code, to read:

25 6408. The registrant’s registration number and  
26 county of registration shall appear on any solicitation or  
27 advertisement, and on the registrant’s work product,  
28 including, but not limited to, letterhead, correspondence,  
29 documents, forms, claims, petitions, checks, receipts,  
30 money orders, pleadings, and other papers relating to  
31 unlawful detainer claims or actions.

32 This section shall become operative January 1, 2002.

33 SEC. 17. Section 6409 of the Business and Professions  
34 Code is amended to read:

35 6409. No legal document assistant or unlawful  
36 detainer assistant shall retain in his or her possession  
37 original documents of a client.

38 This section shall remain in effect only until January 1,  
39 2002, and as of that date is repealed, unless a later enacted

1 statute, that is enacted before January 1, 2002, deletes or  
2 extends that date.

3 SEC. 18. Section 6409 is added to the Business and  
4 Professions Code, to read:

5 6409. No unlawful detainer assistant shall retain in his  
6 or her possession original documents of a client.

7 This section shall become operative January 1, 2002.

8 SEC. 19. Section 6410 of the Business and Professions  
9 Code is amended to read:

10 6410. (a) Every legal document assistant or unlawful  
11 detainer assistant who enters into a contract or  
12 agreement with a client to provide services shall, prior to  
13 providing any services, provide the client with a written  
14 contract, the contents of which shall be prescribed by  
15 regulations adopted by the Department of Consumer  
16 Affairs.

17 (b) The written contract shall include provisions  
18 relating to the following:

19 (1) The services to be performed.

20 (2) The costs of the services to be performed.

21 (3) There shall be printed on the face of the contract  
22 in 12-point boldface type a statement that the legal  
23 document assistant or unlawful detainer assistant is not an  
24 attorney and may not perform the legal services that an  
25 attorney performs.

26 (4) The contract shall contain a statement in 12-point  
27 boldface type that registration with the county clerk is  
28 not an endorsement by the county clerk of the quality of  
29 the legal document assistant's or unlawful detainer  
30 assistant's services or experience.

31 (5) The contract shall contain a statement in 12-point  
32 boldface type that the consumer may obtain information  
33 regarding free or low-cost representation through a local  
34 bar association or legal aid foundation and that the  
35 consumer may contact local law enforcement, a district  
36 attorney, or a legal aid foundation if the consumer  
37 believes that he or she has been a victim of fraud, the  
38 unauthorized practice of law, or any other injury.

39 (6) The contract shall contain a statement in 12-point  
40 boldface type that a legal document assistant or unlawful

1 detainer assistant is not permitted to engage in the  
2 practice of law, including providing any kind of advice,  
3 explanation, opinion, or recommendation to a consumer  
4 about possible legal rights, remedies, defenses, options,  
5 selection of forms, or strategies.

6 (c) The provisions of the written contract shall be  
7 stated both in English and in any other language  
8 comprehended by the client and principally used in any  
9 oral sales presentation or negotiation leading to execution  
10 of the contract.

11 (d) Failure of a legal document assistant or unlawful  
12 detainer assistant to comply with subdivisions (a), (b),  
13 and (c) shall make the contract or agreement for services  
14 voidable at the option of the client. Upon the voiding of  
15 the contract, the legal document assistant or unlawful  
16 detainer assistant shall immediately return in full any fees  
17 paid by the client.

18 (e) The client shall have the right to rescind the  
19 contract within 24 hours of the signing of the contract.  
20 Upon the voiding or rescinding of the contract or  
21 agreement for services, the legal document assistant or  
22 unlawful detainer assistant shall immediately return to  
23 the client any fees paid by the client, except fees for  
24 services that were actually, necessarily, and reasonably  
25 performed on the client's behalf by the legal document  
26 assistant or unlawful detainer assistant with the client's  
27 knowing and express written consent. The requirements  
28 of this subdivision shall be conspicuously set forth in the  
29 written contract.

30 (f) This section shall remain in effect only until  
31 January 1, 2002, and as of that date is repealed, unless a  
32 later enacted statute, that is enacted before January 1,  
33 2002, deletes or extends that date.

34 SEC. 20. Section 6410 is added to the Business and  
35 Professions Code, to read:

36 6410. (a) Every unlawful detainer assistant who  
37 enters into a contract or agreement with a client to  
38 provide services shall, prior to providing any services,  
39 provide the client with a written contract, the contents



1 of which shall be prescribed by regulations adopted by  
2 the Department of Consumer Affairs.

3 (b) The written contract shall include provisions  
4 relating to the following:

5 (1) The services to be performed.

6 (2) The costs of the services to be performed.

7 (3) There shall be printed on the face of the contract  
8 in 12-point boldface type a statement that the unlawful  
9 detainer assistant is not an attorney and may not perform  
10 the legal services that an attorney performs.

11 (c) The provisions of the written contract shall be  
12 stated both in English and, if the client is non-English  
13 speaking, in the language of the client.

14 (d) Failure of an unlawful detainer assistant to comply  
15 with the provisions of subdivisions (a), (b), and (c) shall  
16 make the contract or agreement for services voidable at  
17 the option of the client. Upon the voiding of the contract,  
18 the unlawful detainer assistant shall immediately return  
19 in full any fees paid by the client.

20 (e) The client shall have the right to rescind the  
21 contract within 24 hours of the signing of the contract.  
22 Upon the voiding or rescinding of the contract or  
23 agreement for services, the unlawful detainer assistant  
24 shall immediately return to the client any fees paid by the  
25 client, except fees for services that were actually,  
26 necessarily, and reasonably performed on the client's  
27 behalf by the unlawful detainer assistant. The  
28 requirements of this subdivision shall be conspicuously  
29 set forth in the written contract in both English and, if the  
30 client is non-English speaking, in the language of the  
31 client.

32 (f) This section shall become operative January 1, 2002.

33 SEC. 21. Section 6411 of the Business and Professions  
34 Code is amended to read:

35 6411. It is unlawful for any person engaged in the  
36 business or acting in the capacity of a legal document  
37 assistant or unlawful detainer assistant to do any of the  
38 following:

39 (a) Make false or misleading statements.

1 (b) Make any guarantee or promise to a client or  
2 prospective client, unless the guarantee or promise is in  
3 writing and the legal document assistant or unlawful  
4 detainer assistant has some basis for making the  
5 guarantee or promise.

6 (c) Make any statement that the legal document  
7 assistant or unlawful detainer assistant can or will obtain  
8 special favors or has special influence with a court, or a  
9 state or federal agency.

10 (d) Provide assistance or advice which constitutes the  
11 unlawful practice of law pursuant to Section 6125, 6126,  
12 or 6127.

13 (e) Nothing in this chapter shall be construed to  
14 permit the unauthorized practice of law by a legal  
15 document assistant or unlawful detainer assistant,  
16 including, but not limited to, any kind of advice,  
17 explanation, opinion, or recommendation to a consumer  
18 about possible legal rights, remedies, defenses, options,  
19 selection of forms, or strategies.

20 (f) This section shall remain in effect only until  
21 January 1, 2002, and as of that date is repealed, unless a  
22 later enacted statute, that is enacted before January 1,  
23 2002, deletes or extends that date.

24 SEC. 22. Section 6411 is added to the Business and  
25 Professions Code, to read:

26 6411. It is unlawful for any person engaged in the  
27 business or acting in the capacity of an unlawful detainer  
28 assistant to do any of the following:

29 (a) Make false or misleading statements to a client  
30 while providing services to that client.

31 (b) Make any guarantee or promise to a client, unless  
32 the guarantee or promise is in writing and the unlawful  
33 detainer assistant has some basis for making the  
34 guarantee or promise.

35 (c) Make any statement that the unlawful detainer  
36 assistant can or will obtain special favors or has special  
37 influence with a court, or a state or federal agency.

38 (d) Provide assistance or advice which constitutes the  
39 unlawful practice of law pursuant to Section 6125, 6126,  
40 or 6127.

1 (e) This section shall become operative January 1,  
2 2002.

3 SEC. 23. Section 6412 of the Business and Professions  
4 Code is amended to read:

5 6412. (a) Any owner or manager of residential or  
6 commercial rental property, tenant, or other person who  
7 is awarded damages in any action or proceeding for  
8 injuries caused by the acts of a registrant while in the  
9 performance of his or her duties as a legal document  
10 assistant or unlawful detainer assistant may recover  
11 damages from the bond or cash deposit required by  
12 Section 6405.

13 (b) Whenever there has been a recovery against a  
14 bond or cash deposit under subdivision (a) and the  
15 registration has not been revoked pursuant to Section  
16 6413, the registrant shall file a new bond or deposit an  
17 additional amount of cash within 30 days to reinstate the  
18 bond or cash deposit to the amount required by Section  
19 6405. If the registrant does not file a bond, or deposit this  
20 amount within 30 days, his or her certificate of  
21 registration shall be revoked.

22 (c) This section shall remain in effect only until  
23 January 1, 2002, and as of that date is repealed, unless a  
24 later enacted statute, that is enacted before January 1,  
25 2002, deletes or extends that date.

26 SEC. 24. Section 6412 is added to the Business and  
27 Professions Code, to read:

28 6412. (a) Any owner or manager of residential or  
29 commercial rental property, tenant, or other person who  
30 is awarded damages in any action or proceeding for  
31 injuries caused by the acts of a registrant while in the  
32 performance of his or her duties as an unlawful detainer  
33 assistant may recover damages from the bond or cash  
34 deposit required by Section 6405.

35 (b) Whenever there has been a recovery against a  
36 bond or cash deposit under subdivision (a) and the  
37 registration has not been revoked pursuant to Section  
38 6413, the registrant shall file a new bond or deposit an  
39 additional amount of cash within 30 days to reinstate the  
40 bond or cash deposit to the amount required by Section

1 6405. If the registrant does not file a bond, or deposit this  
2 amount within 30 days, his or her certificate of  
3 registration shall be revoked.

4 (c) This section shall become operative January 1,  
5 2002.

6 SEC. 25. Section 6412.1 is added to the Business and  
7 Professions Code, to read:

8 6412.1. (a) Any person injured by the unlawful act of  
9 a legal document assistant or unlawful detainer assistant  
10 shall retain all rights and remedies cognizable under law.  
11 The penalties, relief, and remedies provided in this  
12 chapter are not exclusive, and do not affect any other  
13 penalties, relief, and remedies provided by law.

14 (b) Any person injured by a violation of this chapter by  
15 a legal document assistant or unlawful detainer assistant  
16 may file a complaint and seek redress in any municipal or  
17 superior court for injunctive relief, restitution, and  
18 damages. Attorney's fees shall be awarded to the  
19 prevailing plaintiff.

20 (c) This section shall remain in effect only until  
21 January 1, 2002, and as of that date is repealed, unless a  
22 later enacted statute, that is enacted before January 1,  
23 2002, deletes or extends that date.

24 SEC. 26. Section 6413 of the Business and Professions  
25 Code is amended to read:

26 6413. The county clerk shall revoke the registration of  
27 a legal document assistant or unlawful detainer assistant  
28 upon receipt of an official document or record stating that  
29 the registrant has been found guilty of the unauthorized  
30 practice of law pursuant to Section 6125, 6126, or 6127, has  
31 been found guilty of a misdemeanor violation of this  
32 chapter, or that a civil judgment has been entered against  
33 the registrant in an action arising out of the registrant's  
34 failure to properly perform his or her obligation as a legal  
35 document assistant or unlawful detainer assistant. The  
36 county clerk shall be given notice of the disposition in any  
37 court action by the city attorney, district attorney, or  
38 plaintiff, as applicable. A registrant whose registration is  
39 revoked pursuant to this section may reapply for  
40 registration after three years.

1 This section shall remain in effect only until January 1,  
2 2002, and as of that date is repealed, unless a later enacted  
3 statute, that is enacted before January 1, 2002, deletes or  
4 extends that date.

5 SEC. 27. Section 6413 is added to the Business and  
6 Professions Code, to read:

7 6413. The county clerk shall revoke the registration of  
8 an unlawful detainer assistant upon receipt of an official  
9 document or record stating that the registrant has been  
10 found guilty of the unauthorized practice of law pursuant  
11 to Section 6125, 6126, or 6127, has been found guilty of a  
12 misdemeanor violation of this chapter, or that a civil  
13 judgment has been entered against the registrant in an  
14 action arising out of the registrant's failure to properly  
15 perform his or her obligation as an unlawful detainer  
16 assistant. The county clerk shall be given notice of the  
17 disposition in any court action by the city attorney,  
18 district attorney, or plaintiff, as applicable. A registrant  
19 whose registration is revoked pursuant to this section may  
20 reapply for registration after one year.

21 This section shall become operative January 1, 2002.

22 SEC. 28. Section 6415 of the Business and Professions  
23 Code is amended to read:

24 6415. A failure, by a person who engages in acts of a  
25 legal document assistant or unlawful detainer assistant, to  
26 comply with any of the requirements of Section 6401.6,  
27 6402, 6408, or 6410, or subdivision (a), (b), or (c) of  
28 Section 6411 is punishable as a misdemeanor punishable  
29 by a fine of not less than one thousand dollars (\$1,000) or  
30 more than two thousand dollars (\$2,000), as to each client  
31 with respect to whom a violation occurs, or imprisonment  
32 for not more than one year, or by both that fine and  
33 imprisonment. Payment of restitution to a client shall  
34 take precedence over payment of a fine.

35 This section shall remain in effect only until January 1,  
36 2002, and as of that date is repealed, unless a later enacted  
37 statute, that is enacted before January 1, 2002, deletes or  
38 extends that date.

39 SEC. 29. Section 6415 is added to the Business and  
40 Professions Code, to read:

1     6415. A failure, by a person who engages in acts of an  
2 unlawful detainer assistant, to comply with any of the  
3 requirements of Section 6402 or 6408, or subdivision (a),  
4 (b), or (c) of Section 6411 is punishable as a misdemeanor  
5 punishable by a fine of not less than one thousand dollars  
6 (\$1,000) or more than two thousand dollars (\$2,000), as to  
7 each client with respect to whom a violation occurs, or  
8 imprisonment for not more than one year, or by both that  
9 fine and imprisonment. Payment of restitution to a client  
10 shall take precedence over payment of a fine.

11     This section shall become operative January 1, 2002.

12     SEC. 30. No reimbursement is required by this act  
13 pursuant to Section 6 of Article XIII B of the California  
14 Constitution for certain costs that may be incurred by a  
15 local agency or school district because in that regard this  
16 act creates a new crime or infraction, eliminates a crime  
17 or infraction, or changes the penalty for a crime or  
18 infraction, within the meaning of Section 17556 of the  
19 Government Code, or changes the definition of a crime  
20 within the meaning of Section 6 of Article XIII B of the  
21 California Constitution.

22     However, notwithstanding Section 17610 of the  
23 Government Code, if the Commission on State Mandates  
24 determines that this act contains other costs mandated by  
25 the state, reimbursement to local agencies and school  
26 districts for those costs shall be made pursuant to Part 7  
27 (commencing with Section 17500) of Division 4 of Title  
28 2 of the Government Code. If the statewide cost of the  
29 claim for reimbursement does not exceed one million  
30 dollars (\$1,000,000), reimbursement shall be made from  
31 the State Mandates Claims Fund.

32     Notwithstanding Section 17580 of the Government  
33 Code, unless otherwise specified, the provisions of this act  
34 shall become operative on the same date that the act  
35 takes effect pursuant to the California Constitution.